



Chris Kachouroff <chris@mck-lawyers.com>

Re: Smartmatic/ Lindell - Production Gaps**Chris Kachouroff** <chris@mck-lawyers.com>

Thu, May 9, 2024 at 3:51 PM

To: "Loftus, Julie" <JLoftus@beneschlaw.com>

Cc: "samuelharms@call00.com" <samuelharms@call00.com>, "Frey, Timothy" <TFrey@beneschlaw.com>, "Bedell, James" <JBedell@beneschlaw.com>

Julie,

Actually, we have discussed it, though not in depth. I was under the impression we were working on these things together to get production finished and that you all needed to supplement as well. So your email comes as somewhat of a surprise.

You should know that we do not have access to the electronic materials through a vendor as did prior counsel. We literally have to search through a CTRL + F function in raw data so things are taking a lot longer to get folders restored, and etc.

In addition, I surmised your flat "No" in terms of producing the settlement agreement was going to be ripe for court intervention. I spoke with OAN's counsel who advised that they were obligated under the settlement agreement to contest any subpoena. If you consent, they will consent. I see no reason to waste time on something the Court is going to order and I am going to see.

In terms of the depositions, we should seek court intervention if we cannot agree to a split of the time. Unless you have authority on that or an alternative proposal, we should then bring that to the Court's attention as well.

I am working through your production requests and much of it is being responded to as we speak but for the reasons I stated, it is slow going. My client does not have the ability at this time to respond any faster.

Finally, do you not want to take part in the informal resolution process of the Court? It might be faster to get our issues resolved. What say you?

Sincerely,

Chris Kachouroff

On Thu, May 9, 2024 at 3:38 PM Loftus, Julie <JLoftus@beneschlaw.com> wrote:

Chris,

What deficiencies are you referring to with respect to Plaintiffs' productions and responses? I do not believe we have met and conferred on Plaintiffs' discovery responses and productions since the case re-opened.

Regarding deposition time for Mary Fanning, Smartmatic does not agree to evenly split time. Give me a call if you would like to discuss.

Best,

Julie



Julie Loftus

DEFENDANT'S
EXHIBIT

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(she/her/hers)

Managing Associate | Litigation
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From: Chris Kachoureff <chris@mck-lawyers.com>

Sent: Thursday, May 9, 2024 2:20 PM

To: Loftus, Julie <JLoftus@beneschlaw.com>

Cc: samuelharms@call00.com; Frey, Timothy <TFrey@beneschlaw.com>; Bedell, James <JBedell@beneschlaw.com>

Subject: Re: Smartmatic/ Lindell - Production Gaps

Perhaps we can use that call to schedule the deficiencies for both parties.

Also, I wanted to confirm that we've agreed for these non-party depositions that it should be equal time for both of us. I did not hear anything back on this.

Sincerely,

Chris Kachoureff

On Thu, May 9, 2024 at 3:16 PM Loftus, Julie <JLoftus@beneschlaw.com> wrote:

Chris,

Thank you for these responses. I understand you are working to address other communications I have sent regarding outstanding discovery. We plan to call the court on Monday to schedule a hearing for any as-yet unresolved disputes regarding Defendants' productions and discovery responses.

Best,

Julie



Julie Loftus

(she/her/hers)

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From: Chris Kachouroff <chris@mck-lawyers.com>

Sent: Wednesday, May 8, 2024 8:14 PM

To: Loftus, Julie <JLoftus@beneschlaw.com>

Cc: samuelharms@call00.com; Frey, Timothy <TFrey@beneschlaw.com>; Bedell, James <JBedell@beneschlaw.com>

Subject: Re: Smartmatic/ Lindell - Production Gaps

Julie,

See my responses to this email below in **RED**. I'd like to talk to you about the items in **BLUE** tomorrow. Working on responses to the other emails.

Chris

On Tue, May 7, 2024 at 5:19 PM Loftus, Julie <JLoftus@beneschlaw.com> wrote:

Counsel:

I write to identify categories of documents that are responsive to Smartmatic's requests and are missing from Defendants' productions. Chris, these documents are separate from the items listed in my prior communications you noted you would be addressing this week.

First, Smartmatic served its final set of discovery requests on September 20, 2023. This includes (1) requests for production, (2) requests for admission, and (3) interrogatories.

Smartmatic has not received Defendants' written responses to these requests, nor have we received documents responsive to this set of requests. The requests are attached here for reference. In particular, Defendants have not produced documents responsive to **RFP Nos. 38–48**.

Second, we are missing numerous categories of documents responsive to Smartmatic's RFPs:

Documents related to MyPillow

- **RFP No. 23:** Defendants previously stated that no insurance agreements stating that another entity would be responsible for a judgment in this case exist. We request that Defendants verify that this is the case. In Defendants' production, there were communications with an insurance provider regarding Dominion's case against Defendants. **NONE.**
- **RFP No. 24:** Similarly, Defendants previously stated that they have no joint defense agreements with any other party concerning this case. We request that Defendants confirm that this is still the case or supplement the production with responsive agreement(s). **NONE.**
- **RFP No. 25:** Defendants have previously refused to produce MyPillow board minutes. From deposition testimony of multiple witnesses, we know that MyPillow keeps minutes of its board meetings. Additionally, we have seen minutes from at least one meeting in Defendants' production. Please confirm you will produce responsive board minutes.
- **RFP No. 26:** MyPillow produced P&L documentation, profits by customer, income statements, and tax returns for 2018–2021. Please confirm that Defendants will be supplementing the production to include documents through the present pursuant to their duties under Rule 26(e).
- **RFP No. 27:** Defendants previously stated that they have no MyPillow strategic business or planning documents. Please verify whether or not Defendants are standing on this position. **NONE.**

Documents related to Defendants' actual malice

- **RFP No. 16:** Defendants have not produced documents evincing payments to third parties working on Lindell's documentaries, such as Dennis Montgomery, Conan Hayes, Douglas Frank, Mary Fanning, and Brannon Howse. Smartmatic expects to see documents containing this information. PRELIMINARILY, MY PILLOW - NONE; MIKE LINDELL - NONE. HOWEVER, STILL NEED TO CONFIRM THIS.
- **RFP No. 34:** We have not seen any documents regarding Lindell's efforts in Shasta County, California. These responsive documents are missing.

So, I went ahead and did a google search and came up with a FOIA response by Shasta County. I attached them but did not BATES stamp them because it is readily accessible online. I do not have any other documents in our possession other than these. In fact, there are text messages which Lindell no longer has because the FBI seized his phone and they still have it.

I retrieved the documents at <https://www.documentcloud.org/documents/24017928-shasta-county-calif-board-of-supervisors-communications-about-dominion-contracts>.

Let's discuss this week. Chris, I know we plan to speak tomorrow regarding other discovery items. Could this group meet Thursday or Friday to discuss?

Best,

Julie

Julie Loftus

(she/her/hers)

Managing Associate | Litigation



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 Inline image 1

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 Inline image 1



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